

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:
USDC Docket Number : 03-12541

Robert P. Goodrich

v.

Tim Hall

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 3/17/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on August 3, 2005.

Sarah A Thornton, Clerk of Court

By: *Jeanette Ramos*
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 8-4-05.

Susan Pedram
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)**
CIVIL DOCKET FOR CASE #: 1:03-cv-12541-NG

Petitioner

Robert P. Goodrich represented by **Peter E. Gelhaar**
Donnelly, Conroy & Gelhaar, LLP
One Beacon Street
33rd Floor
Boston, MA 02108
617-720-2880
Fax: 617-720-3554
Email: peg@dcglaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jill Brenner Meixel
Donnelly, Conroy & Gelhaar, LLP
One Beacon Street
33rd Floor
Boston, MA 02108
617-720-2880
Fax: 617-720-3554
Email: jbm@dcglaw.com
ATTORNEY TO BE NOTICED

Michael S. D'Orsi
Donnelly, Conroy & Gelhaar, LLP

One Beacon Street
 33rd Floor
 Boston, MA 02108
 617-720-2880
 Fax: 617-720-3554
 Email: msd@dcglaw.com
ATTORNEY TO BE NOTICED

V.

Respondent

Timothy Hall
Superintendent

represented by **Maura D. McLaughlin**
 Office of the Attorney General
 Criminal Bureau, Appellate
 Division
 One Ashburton Place, 18th Floor
 Boston, MA 02108
 617-727-2200, ext 2857
 Fax: 617-727-5755
 Email:
 maura.mclaughlin@ago.state.ma.us

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/01/2003	•1	MOTION for Leave to Proceed in forma pauperis by Robert P. Goodrich.(Jenness, Susan) (Entered: 12/17/2003)
12/01/2003	•3	MOTION to Appoint Counsel by Robert P. Goodrich. (Jenness, Susan) (Entered: 12/17/2003)
12/17/2003	•2	FINANCIAL AFFIDAVIT by Robert P. Goodrich. (Jenness, Susan) (Entered: 12/17/2003)
12/17/2003	•	Case undergoing preliminary screening (Jenness,

		Susan) (Entered: 12/17/2003)
12/17/2003	•7	PETITION for writ of habeas corpus pursuant to 28:2254 \$ 5, receipt number 52562, filed by Robert P. Goodrich.(Diskes, Sheila) (Entered: 01/20/2004)
12/17/2003	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Diskes, Sheila) (Entered: 01/20/2004)
01/12/2004	•4	Judge Nancy Gertner : ORDER entered denying 1 Motion for Leave to Proceed in forma pauperis as MOOT. The Court's records indicate petitioner paid the \$5.00 filing fee on December 17, 2003. copies mailed to petitioner and respondent. (Morse, Barbara) (Entered: 01/17/2004)
01/12/2004	•5	Judge Nancy Gertner : ORDER entered granting 3 Motion to Appoint Counsel. Copies mailed to petitioner and respondent. (Morse, Barbara) (Entered: 01/17/2004)
01/12/2004	•6	Judge Nancy Gertner : ORDER entered SERVICE ORDER re 2254 Petition. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondents. Answer/responsive pleading due w/in 20 days of rcpt of this order. It is further ordered the Clerk shall correct the case caption to list Tim Hall, Superintendent a the sole respondent. Copies mailed to petitioner, Superintendent Hall at OCCC and to Attorney General for the Commonwealth (Attn: William J. Meade).(Morse, Barbara) (Entered: 01/17/2004)
01/20/2004	•8	ATTORNEY ASSIGNMENT Request forwarded to Magistrate Judge assigned for appointment of counsel. (Molloy, Maryellen) (Entered: 01/20/2004)
01/20/2004	•9	Judge Nancy Gertner : ORDER entered REFERRING CASE to Magistrate Judge Robert B. Collings

		Referred for: attorney assignment(Filo, Jennifer) (Entered: 01/20/2004)
01/29/2004	• 10	Judge Robert B. Collings : ORDER entered CJA 20: Appointment of Attorney Peter E. Gelhaar for Robert P. Goodrich. (Affsa, Gina) (Entered: 02/05/2004)
02/05/2004	•	As counsel has been appointed, this case is no longer referred to Magistrate Judge Robert B. Collings. (Affsa, Gina) (Entered: 02/05/2004)
02/09/2004	• 11	MOTION for Extension of Time to 3/11/04 to File Answer re <u>7</u> Petition for writ of habeas corpus (28:2254) by Timothy Hall.c/s(Filo, Jennifer) (Entered: 02/10/2004)
02/09/2004	• 12	MOTION for Leave to Dispense with the Conference Requirement of Local Rule 7.1 by Timothy Hall. c/s (Filo, Jennifer) (Entered: 02/10/2004)
02/11/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>11</u> Motion for Extension of Time to Answer re <u>7</u> Petition for writ of habeas corpus (28:2254) Timothy Hall. (Filo, Jennifer) (Entered: 02/11/2004)
02/18/2004	•	Judge Nancy Gertner : Electronic ORDER entered finding as moot <u>12</u> Motion for Leave to Dispense w/conference requirement L.R. 7.1....atty Gelhaar appointed to represent petitioner, see dkt entry #10 for details. (Molloy, Maryellen) (Entered: 02/18/2004)
03/11/2004	• 15	ASSENTED TO MOTION to Impound Supplemental Answer by Timothy Hall.(Filo, Jennifer) (Entered: 03/22/2004)
03/11/2004	• 16	ANSWER to Complaint by Timothy Hall.(Filo, Jennifer) (Entered: 03/22/2004)
03/11/2004	• 17	MOTION to Dismiss Petition for Writ of Habeas Corpus by Timothy Hall.(Filo, Jennifer) (Entered: 03/22/2004)

03/11/2004	•18	MEMORANDUM in Support re <u>17</u> MOTION to Dismiss filed by Timothy Hall. (Filo, Jennifer) (Entered: 03/22/2004)
03/19/2004	•13	NOTICE of Appearance by Jill Lori Brenner on behalf of Robert P. Goodrich (Brenner, Jill) (Entered: 03/19/2004)
03/19/2004	•14	MOTION for Extension of Time to April 8, 2004 to To File Opposition to Respondent's Motion to Dismiss (Assented-To) by Robert P. Goodrich.(Brenner, Jill) (Entered: 03/19/2004)
03/24/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>14</u> Assented to Motion for Extension of Time to file opposition to respondent motion to dismiss...ALLOWED TO 4/8/04. (Molloy, Maryellen) (Entered: 03/24/2004)
04/05/2004	•19	Assented to MOTION for Extension of Time to April 29, 2004 to File Opposition to Respondent's Motion to Dismiss by Robert P. Goodrich.(Brenner, Jill) (Entered: 04/05/2004)
04/06/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>19</u> Assented to Motion for Extension of Time (Filo, Jennifer) (Entered: 04/06/2004)
04/06/2004	•	Set/Reset Deadlines as to <u>17</u> MOTION to Dismiss. Responses due by 4/29/2004 (Filo, Jennifer) (Entered: 04/06/2004)
04/06/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>15</u> ASSENTED TO Motion to Impound Supplemental Answer (Filo, Jennifer) (Entered: 04/06/2004)
04/16/2004	•20	SEALED DOCUMENT (Supplement answer) placed in secure file room.. (Filo, Jennifer) (Entered: 04/16/2004)
04/29/2004	•21	STIPULATION of Dismissal of <i>Ground Two of</i>

		<i>Petitioner's Writ of Habeas Corpus</i> by Robert P. Goodrich, Timothy Hall. (Brenner, Jill) (Entered: 04/29/2004)
04/29/2004	•22	Assented to MOTION to Seal <i>Petitioner's Opposition to Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus</i> by Robert P. Goodrich.(Brenner, Jill) (Entered: 04/29/2004)
04/29/2004	•23	Assented to MOTION for Extension of Time to Until Court Enters Order on Petitioner's Assented-To Motion for Leave to Impound Petitioner's Opposition to Respondent's Motion to Dismiss Petition For Writ of Habeas Corpus to File Opposition to Respondent's Motion to Dismiss by Robert P. Goodrich.(Brenner, Jill) (Entered: 04/29/2004)
05/01/2004	•	Judge Nancy Gertner : ELECTRONIC ORDER entered granting <u>22</u> Motion to Seal, granting <u>23</u> Motion for Extension of Time. (Gertner, Nancy) (Entered: 05/01/2004)
05/03/2004	•24	SEALED Opposition re <u>17</u> MOTION to Dismiss Petition for Writ of Habeas Corpus filed by Robert P. Goodrich. (Filo, Jennifer) (Entered: 05/04/2004)
05/03/2004	•25	SEALED AFFIDAVIT of Jill L. Brenner re [24] Opposition to Motion to dismiss Petition for Writ of Habeas Corpus by Robert P. Goodrich. (Filo, Jennifer) (Entered: 05/04/2004)
06/07/2004	•	Judge Nancy Gertner : ELECTRONIC ORDER entered denying <u>17</u> Motion to Dismiss :Respondent has moved to dismiss Goodrich's petition, arguing that the one claim remaining is unexhausted because he did not present the federal constitutional nature of his claim to the Supreme Judicial Court of Massachusetts. Having reviewed petitioner's brief to the SJC, I find that it meets the minimum requirement that the "state court [was] fairly [] alerted to its federal character and

		[was] afforded the opportunity to pass on the validity of the federal constitutional grounds underlying the claim." <i>Tart v. Commonwealth of Massachusetts</i> , 949 F.2d 490, 495 (1st Cir. 1991). In his bold, capitalized argument, which appears twice in the brief to the SJC, petitioner wrote that the prosecutor, "in violation of Amendment XIV and Article XII of the Declaration of Rights," presented perjured information to the grand jury. While it is true that Goodrich did not include a detailed discussion of the specifics of the constitutional claim in the SJC brief, he did twice cite a specific provision of the Constitution. See <i>Gagne v. Fair</i> , 835 F.2d 6, 7 (1st Cir. 1987) (citing <i>Dougan v. Ponte</i> , 727 F.2d 199, 201 (1st Cir. 1984) and holding that among the methods in which a petitioner may fulfill the exhaustion requirement is "citing a specific provision of the constitution.") I find that a "reasonable jurist would recognize the constitutional dimensions of the petitioner's claims, given the manner in which those claims were presented" to the SJC. <i>Barresi v. Maloney</i> , 296 F.3d 48, 52 (1st Cir. 2002). Respondant's motion to dismiss is therefore DENIED. (Gertner, Nancy) (Entered: 06/07/2004)
06/25/2004	•26	JOINT MOTION for Briefing Schedule by Robert P. Goodrich, Timothy Hall.(Filo, Jennifer) (Entered: 07/01/2004)
07/02/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>26</u> Joint Motion for Briefing Schedule (Filo, Jennifer) (Entered: 07/02/2004)
07/12/2004	•27	Assented to MOTION to Seal <i>Petitioner's Memorandum in Support of Issuance of Writ of Habeas Corpus</i> by Robert P. Goodrich.(Brenner, Jill) (Entered: 07/12/2004)
07/19/2004	•28	Assented to MOTION for Extension of Time to July 23, 2004 to File Memorandum in Support of Issuance

		of Writ of Habeas Corpus by Robert P. Goodrich. (Brenner, Jill) (Entered: 07/19/2004)
07/22/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>27</u> Motion to Seal, granting <u>28</u> Motion for Extension of Time to 7/23/04. (Molloy, Maryellen) (Entered: 07/22/2004)
07/22/2004	• <u>29</u>	Assented to MOTION for Extension of Time to 07/30/04 to File <i>Memorandum In Support of Issuance Of Writ Of Habeas Corpus And To Alter Briefing Schedule</i> by Robert P. Goodrich.(D'Orsi, Michael) (Entered: 07/22/2004)
07/30/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>29</u> Motion for Extension of Time to File (Filo, Jennifer) (Entered: 07/30/2004)
08/02/2004	• <u>30</u>	SEALED MEMORANDUM by Robert P. Goodrich in Support to <u>7</u> Petition for writ of habeas corpus (28:2254). (Filo, Jennifer) (Entered: 08/02/2004)
08/02/2004	• <u>31</u>	SEALED AFFIDAVIT of Jill L. Brenner re [30] Memorandum in Support by Robert P. Goodrich. (Filo, Jennifer) (Entered: 08/02/2004)
08/26/2004	• <u>32</u>	ASSENTED TO MOTION for Extension of Time to 9/3/04 to File Response/Reply as to <u>7</u> Petition for writ of habeas corpus (28:2254) by Timothy Hall.(Filo, Jennifer) (Entered: 08/30/2004)
08/30/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>32</u> Assented to Motion for Extension of Time to File Response/Reply Responses due by 9/3/2004 (Filo, Jennifer) (Entered: 08/30/2004)
09/03/2004	• <u>33</u>	ASSENTED TO MOTION to Seal by Timothy Hall. (Filo, Jennifer) (Entered: 09/09/2004)
09/03/2004	• <u>34</u>	SEALED MEMORANDUM OF LAW in Opposition by Timothy Hall to <u>7</u> Petition for writ of habeas corpus (28:2254). (Filo, Jennifer) (Entered:

		09/09/2004)
09/29/2004	•35	Assented to MOTION for Extension of Time to October 8, 2004 to File Reply Memorandum by Robert P. Goodrich.(Brenner, Jill) (Entered: 09/29/2004)
10/05/2004	•36	Assented to MOTION to Seal <i>Petitioner's Reply Memorandum in Support of Issuance of Writ of Habeas Corpus</i> by Robert P. Goodrich.(Brenner, Jill) (Entered: 10/05/2004)
10/06/2004	•37	Assented to MOTION for Extension of Time to October 15, 2004 to File Reply Memorandum in Support of Issuance of Writ of Habeas Corpus by Robert P. Goodrich.(Brenner, Jill) (Entered: 10/06/2004)
10/07/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting 36 Motion to Seal, granting 37 Motion for Extension of Time (Filo, Jennifer) (Entered: 10/07/2004)
10/14/2004	•38	Assented to MOTION for Extension of Time to October 22, 2004 to File Reply Memorandum In Support of Issuance of Writ of Habeas Corpus by Robert P. Goodrich.(Brenner, Jill) (Entered: 10/14/2004)
10/22/2004	•39	SEALED REPLY MEMORANDUM in Further Support of Issuance of Writ of Habeas Corpus by Robert P. Goodrich. (Filo, Jennifer) (Entered: 10/25/2004)
12/01/2004	•	Judge Nancy Gertner : Electronic ORDER entered granting 35 Motion for Extension of Time, granting 38 Motion for Extension of Time (Molloy, Maryellen) (Entered: 12/01/2004)
01/07/2005	•40	Assented to MOTION to Seal Document by Timothy Hall.(McLaughlin, Maura) Additional attachment(s)

		added on 1/11/2005 (Filo, Jennifer). (Entered: 01/07/2005)
03/11/2005	•41	Judge Nancy Gertner : ORDER entered. MEMORANDUM AND ORDER RE: PETITION FOR HABEAS CORPUS(Filo, Jennifer) (Entered: 03/14/2005)
03/11/2005	•42	Judge Nancy Gertner : ORDER entered. ORDER DISMISSING CASE(Filo, Jennifer) (Entered: 03/14/2005)
03/17/2005	•43	NOTICE OF APPEAL as to <u>41</u> Memorandum & ORDER, <u>42</u> Order Dismissing Case by Robert P. Goodrich. No Fee Required because CJA Appointment. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 4/6/2005. (Meixel, Jill) (Entered: 03/17/2005)
04/05/2005	•44	Assented to MOTION to Seal Document by Robert P. Goodrich.(Meixel, Jill) (Entered: 04/05/2005)